

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JENNARD De'WAYNE WITHERSPOON,)	
)	
Plaintiff,)	2:05cv1763
)	Electronic Filing
v.)	
)	Judge Cercone
WARDEN JOHN R. WALTON, et al.,)	Magistrate Judge Caiazza
)	
)	
Defendants.)	
)	

MEMORANDUM ORDER

The Plaintiff's complaint was received by the Clerk of Court on December 22, 2005, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on October 31, 2006, recommended that Defendants' Motion for Summary Judgment (Document No. 9) be granted.

The parties were allowed ten days from the date of service to file objections. Service was made on the Plaintiff by First Class United States Mail delivered to the State Correctional Institution at Greensburg, Greensburg, Pennsylvania, where he is incarcerated and on the Defendants. No objections have been filed. After review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 20th day of November, 2006

IT IS HEREBY ORDERED that Defendants' Motion for Summary Judgment is GRANTED.

The Report and Recommendation of Magistrate Judge Caiazza, (Document 12), dated October 31, 2006, is adopted as the opinion of the court.



David Stewart Cerccone
United States District Judge

cc: Honorable Francis X. Caiazza
United States Magistrate Judge

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